

REMARKS

1. Introduction

In the final Office Action mailed August 12, 2005, the Examiner rejected all pending claims under 35 U.S.C. 103(a). Specifically, the Examiner rejected claims 1-3, 6, 24, and 26-28 over Steer, U.S. Patent No. 6,845,246 ("Steer") in view of Sunay et al., U.S. Patent No. 5,940,743 ("Sunay"). The Examiner rejected claims 7-8 and 13 over Whang et al., U.S. Patent No. 6,609,008 ("Whang") in view of Soliman, U.S. Patent No. 6,490,460 ("Soliman"). The Examiner rejected claims 9-12 over Whang, in view of Soliman in further view of Chen, U.S. Patent No. 6,763,244 ("Chen"). The Examiner rejected claims 14-20 over Chen in view of Steer and in further view of Soliman. The Examiner rejected claims 25 over Steer in view of Sunay and further in view of Amirijoo et al., U.S. Patent No. 6,603,976 ("Amirijoo").

In this Response, Applicant has canceled claim 26 and amended claims 1, 7, 14, 16, and 27. Claims 4, 5 and 21-23 were canceled previously. Thus, claims 1-3, 6-20, 24, 25, 27, and 28 are currently pending.

For the reasons set forth below, Applicant requests reconsideration and allowance of the claims as amended.

2. Response to Claim Rejections

a. Claims 1-3, 6, and 27-28

Of these claims, claim 1 is independent. The Examiner has rejected claim 1 under § 103(a) as being unpatentable over Steer in of Sunay. In response, Applicant has amended claim 1 to recite the function of "the base station determining a location of the mobile station *when the*

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mobile station is going to engage in a call.” Applicant submits that this amendment clearly distinguishes claim 1 from the Steer/Sunay combination.

The Examiner has acknowledged that Steer does not teach a base station selecting an initial power level. However, the Examiner has alleged that Sunay teaches this function, at col. 5, lines 20-40. This section of Sunay discloses a process for effecting a handoff from a first base station to a second base station, in which the mobile station receives “mobile station power data” in a handoff direction message from the first base station. During this handoff process, the mobile station is *already* engaged in a call:

As a mobile station *involved in a call* moves throughout the cells of the system and predetermined conditions for handoff are satisfied, a handoff from a first base station to a second base station may be initiated by the mobile station.

(col. 5, lines 6-9)(emphasis added). In contrast, claim 1 has been amended to specify that the base station determines the mobile station’s location, on which the mobile station’s initial power level is selected, when the mobile station is *going* to engage in a call. Thus, Sunay does not make up for the deficiencies of Steer. Sunay discloses having a base station select the mobile station’s power level when the mobile station is *already* engaged in a call, not when the mobile station is *going* to engage in a call.

In addition, Applicant’s amendment to claim 1 renders the Examiner’s alleged motivation to combine Steer and Sunay inapplicable. In particular, the Examiner has alleged that it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the initial power level of Sunay in the system of Steer “for the purpose of controlling the transmission power of the mobile station during handoff of a call between base stations” (Office Action, p. 5). However, amended claim 1 is directed to a method of selecting the mobile station’s initial power level when the mobile station is *going* to engage in a call. Thus, the

Examiner's alleged motivation to combine Steer and Sunay would not lead one of ordinary skill in the art to the method of claim 1.

Accordingly, Applicant submits that claim 1 is allowable over Steer and Sunay for at least the foregoing reasons. Applicant further submits that claims 2-3, 6, and 27-28 are allowable for at least the reason that the claims are dependent on an allowable claim.

b. Claims 7-13

Of these claims, claim 7 is independent. The Examiner has rejected claim 7 under § 103(a) as being unpatentable over Whang in view of Soliman. However, Applicant respectfully submits that claim 7 is allowable over the Whang/Soliman combination based on (i) Soliman's teaching of upper and lower power control limits instead of a setpoint and (ii) Applicant's amendment to claim 7.

With respect to point (i), Applicant has argued, in Applicant's previous Response, that Soliman does not teach a reverse link *setpoint* but, rather, upper and lower *limits* of the reverse link power control loops. The Examiner has now acknowledged that Soliman teaches upper and lower limits of the reverse link power control loops. However, the Examiner has argued that the reverse link power control loop "also maintains a particular SNR value, which is the target or set point, between the minimum and maximum levels" (Office Action, p. 3). In support of this view, the Examiner has cited to col. 1, lines 28-45, col. 2, lines 40-57, and col. 3, lines 19-28 of Soliman. However, none of these sections refers to a setpoint at all. Indeed, the col. 1 section clearly supports Applicant's position:

A different power control loop is similarly used to *maintain* the received signal to noise ratio of signals sent on the reverse link (i.e., the SNR measured at the base station of signals sent from the mobile station to the base station) *between a minimum desired level and a maximum desired level*.

(col. 1, lines 28-34)(emphasis added). Thus, the very section cited by the Examiner clearly states that the SNR is maintained between two limits: a minimum desired level and a maximum desired level. The section does not state that a particular SNR value is maintained as alleged by the Examiner. The two other sections cited by the Examiner also do not refer to a setpoint but, rather, refer to dynamic adjustment of these minimum and maximum desired levels. Accordingly, Applicant submits that Soliman does not teach a “reverse link setpoint,” as recited in claim 7.

With respect to point (ii), Applicant has amended claim 7 to recite the “*the base station* selecting ... an initial transmit power.” This amendment clearly distinguishes over the Whang/Soliman combination. In particular, the Examiner has cited Whang as teaching the function of selecting an initial transmit power for the mobile station on the primary communication channel. However, as the Examiner has previously acknowledged, Whang teaches that the *mobile station*, rather than the *base station*, selects the initial transmit power level on the reverse link. Thus, Applicant’s amendment clearly distinguishes over the Whang/Soliman combination.

Accordingly, Applicant submits that claim 7 is allowable over Whang and Soliman for at least the foregoing reasons. Applicant further submits that claims 8-13 are allowable for at least the reason that the claims are dependent on an allowable claim.

c. Claims 14 and 15

Of these claims, claim 14 is independent. The Examiner has rejected claim 14 under § 103(a) as being unpatentable over Chen in view of Steer and in further view of Soliman. However, Applicant respectfully submits that claim 14 is allowable over the Chen/Steer/Soliman

combination based on (i) Soliman's teaching of upper and lower power control limits instead of a setpoint, and (ii) Applicant's amendment to claim 14.

With respect to point (i), Applicant has argued, in Applicant's previous Response, that Soliman does not teach a reverse link *setpoint* but, rather, upper and lower *limits* of the reverse link power control loops. The Examiner has now acknowledged that Soliman teaches upper and lower limits of the reverse link power control loops but has argued that the reverse link power control loop "also maintains a particular SNR value, which is the target or set point, between the minimum and maximum levels" (Office Action, p. 3). However, as set forth above for claim 7, the Examiner has misread Soliman. The very section of Soliman cited by the Examiner states that the SNR is maintained between a minimum desired level and a maximum desired level, not at a particular, setpoint level. Thus, Soliman does not teach a "reverse link setpoint," as recited in claim 14.

With respect to point (ii), Applicant has amended claim 14 to recite "*the base station* selecting ... values of initial mobile station transmit power." This amendment clearly distinguishes over the Chang/Steer/Soliman combination. In particular, the Examiner has cited Steer as teaching the function of selecting from a database values of initial mobile station transmit power. However, the Examiner has acknowledged that "Steer does not teach a *base station* selecting an initial power level" (Office Action, p. 4)(emphasis added). Thus, Applicant's amendment clearly distinguishes over the Chang/Steer/Soliman combination.

Accordingly, Applicant submits that claim 14 is allowable over Chen, Steer, and Soliman for at least the foregoing reasons. Applicant further submits that claim 15 is allowable for at least the reasons that it is dependent on an allowable claim.

d. Claims 16-20

Of these claims, claim 16 is independent. The Examiner has rejected claim 16 under § 103(a) as being unpatentable over Chen in view of Steer and in further view of Soliman. However, Applicant respectfully submits that claim 16 is allowable over the Chen/Steer/Soliman combination based on (i) Soliman's teaching of upper and lower power control limits instead of a setpoint, and (ii) Applicant's amendment to claim 16.

With respect to point (i), Applicant has argued, in Applicant's previous Response, that Soliman does not teach a *setpoint* but, rather, upper and lower *limits* of the reverse link power control loops. The Examiner has now acknowledged that Soliman teaches upper and lower limits of the reverse link power control loops but has argued that the reverse link power control loop "also maintains a particular SNR value, which is the target or set point, between the minimum and maximum levels" (Office Action, p. 3). However, as set forth above for claim 7, the Examiner has misread Soliman. The very section of Soliman cited by the Examiner states that the SNR is maintained between a minimum desired level and a maximum desired level, not at a particular, setpoint level. Thus, Soliman does not teach a "setpoint," as recited in claim 16.

With respect to point (ii), Applicant has amended claim 16 to recite "*the base station* selecting ... a mobile station transmit power." This amendment clearly distinguishes over the Chang/Steer/Soliman combination. In particular, the Examiner has cited Steer as teaching the function of selecting a mobile station transmit power. However, the Examiner has acknowledged that "Steer does not teach a *base station* selecting an initial power level" (Office Action, p. 4)(emphasis added). Thus, Applicant's amendment clearly distinguishes over the Chang/Steer/Soliman combination.

Accordingly, Applicant submits that claim 16 is allowable over Chen, Steer, and Soliman for at least the foregoing reasons. Applicant further submits that claims 17-20 are allowable for at least the reason that the claims are dependent on an allowable claim.

e. Claims 24 and 25

Of these claims, claim 24 is independent. The Examiner has rejected claim 24 under § 103(a) as being unpatentable over Steer in of Sunay. In response, Applicant submits that this rejection is improper and should be withdrawn because (i) Steer and Sunay, taken together, do not teach the system of claim 24 and (ii) the Examiner's alleged motivation to combine Steer and Sunay is not pertinent to the system of claim 24.

With respect to point (i), the Examiner has acknowledged that Steer does not teach a base station selecting an initial power level but has alleged that Sunay teaches this function, at col. 5, lines 20-40. As noted above with respect to claim 1, the handoff process in Sunay cited by the Examiner occurs when the mobile station is *already* engaged in a call. In contrast, claim 24 specifies that the BSC selects an initial power level "when a mobile station is *going* to engage in a call." Thus, Sunay does not make up for the deficiencies of Steer. Sunay discloses having a base station select the mobile station's power level when the mobile station is *already* engaged in a call, not when the mobile station is *going* to engage in a call.

Moreover, the Examiner has alleged that it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the initial power level of Sunay in the system of Steer "for the purpose of controlling the transmission power of the mobile station during handoff of a call between base stations" (Office Action, p. 6). However, this alleged motivation to combine is not pertinent to claim 24 because claim 24 specifies that the BSC determines a location of the mobile station and selects an initial power level based on the mobile

station's location when the mobile station "is going to engage in a call." Thus, the Examiner's alleged motivation to combine Steer and Sunay would not lead one of ordinary skill in the art to the system of claim 24.

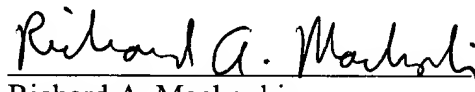
Accordingly, Applicant submits that claim 24 is allowable over Steer and Sunay for at least the foregoing reasons. Applicant further submits that claim 25 is allowable for at least the reasons that it is dependent on an allowable claim.

3. Conclusion

Applicant submits that the present application is in condition for allowance, and notice to that effect is hereby requested. Should the Examiner feel that further dialog would advance the subject application to issuance, the Examiner is invited to telephone the undersigned at any time at (312) 913-0001.

Respectfully submitted,

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